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P56988**REMARKS**

This Supplemental Amendment is prepared in view of the Office Interview of 31 January 2007, and is supplemental to the Amendment under 37 C.F.R. §1.111 filed on 3 January 2007. Entry of the following amendments, re-examination and reconsideration are respectfully requested.

**Listing of the Claims**

Pursuant to 37 CFR §121(c), the claim listing, including the text of the claims, will serve to replace all prior versions of the claims, in the application.

**Status of the Claims**

Claims 21 through 43 are pending in this application.

**Amendment of the Claims**

Claims 1 through 20 are cancelled and claims 24 through 43 are substituted therefore, to adopt suggestions kindly offered by the Examining staff in Paper No. 20060623 and the Office interview held with the Examiner and the Supervisory Primary Examiner on the 31<sup>st</sup> of January 2007.

In considering the amended and newly presented claims, the Examiner should note that in comparison to the art of record, in the embodiments of Applicant's invention described in the *Detailed Description*, the second rests 32 and second saddles 34 in a transfer region 50 of the revolving conveyor 30' are guided parallel to the saddles 20 of the first rests 18 of the collection drum 14 on concentric circular arc sections, which lie on essentially parallel planes neighboring one another and which could have the same radius along a curved arc. The orientation of second saddles 34 may be changed in orientation by an angle  $\alpha$  from parallel to the axis of the conveyor assembly and perpendicular to the direction F of the conveyor path, as is illustrated, for example, by Applicant's Figure 4. It is also conceivable for the circular arc sections to lie on planes aligned *inclined* to one another, this particularly being the case if the second rests 32 with their longitudinal extension are aligned at an angle deviating by 90° transversely to the conveying direction F. The circular arc sections may

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also be slightly *displaced* to one another instead of being concentric or may also have different radii. With all these variants it is just a question that a transfer of the printed products from the collection drum 14 to the revolving conveyor means 30' e.g. using conveyor elements of the collection drum, is able to be carried out without any problem. Instead of providing the second deflection means 44' with a second axis 36' arranged parallel to the first axis 36 at the same height, as shown in Fig. 1, the second axis 36' of the diverting means 44' may also be *displaced* in height or e.g. with an S-shaped rail guide between the diverting means 44, 44', may be arranged laterally *displaced* to the first axis 36. The rail radius of the second deflection means 44' may *deviate* from the first deflection means 44 and may be larger as well as smaller. These possibilities of designing the revolving conveyor means 30' open up a great potential in space use possibilities."<sup>1</sup>

It may be appreciated that if, by way of the several examples given in the foregoing excerpt from Applicant's original specification in which either the planes, axes or constituent components of the **collection assembly** and the **conveyor assembly** are in the various ways detailed by the specification, either *inclined*, *displaced* or arranged to *deviate*, in any manner other than in a configuration other than in with axes 36, 36' are precisely parallel, there is some part, or all of the **collection assembly** and the **conveyor assembly** are both *selectively alignable* and *positionally spaced-apart* to some extent, with a *second axis displaceable from coaxial alignment with said drum axis* to some degree. Accordingly, there is no factual basis for questioning the enablement of claim claims 21 through 43.

Applicant has taken this opportunity to broaden the scope of the pending claims

Applicant respectfully directs the attention of the Examining staff to the *Detailed Description* which states, *inter alia*, that "revolving conveyor 30' shown by way of example is equipped with two axes 36, 36' which are arranged essentially parallel to one another ...

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<sup>1</sup> Original specification, page 16, lines 10-21, and page 17, lines 1-5.

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. the first axis 36 here is arranged flush with the drum axis of the collection drum 14.”<sup>2</sup> “For the movement of the rests in the conveyor direction F, in the example shown here a conveyor unit is fastened on the frame 26 which is actively connected to a conveyor (not shown) which is guided in the rail 28’ next to the saddle and which is in engagement with the carriage 38’ of the second rests 32. The conveyor unit by way of a gear for example, is connected to the motor 17 which drives the collection drum which simplifies the matching of the conveyor speed in the conveyor path 31 to the rotation speed of the collection drum 14. A *separate motor* for the conveyor unit 35 of the conveyor is also conceivable.”<sup>3</sup>

Elsewhere, the *Detailed Description* states that “the region of the first axis 36 the first deflection 44 in the embodiment example shown here is designed such that those sides of the second saddles 34 adjacent the collection drum end 24 in a transfer region 50 of the revolving conveyor 30’ are guided parallel to the saddles 20 of the first rests 18 of the collection drum 14 on concentric arc sections, which lie on essentially parallel planes neighboring one another and have the same radius. It is also conceivable for the circular arc sections *to lie on planes aligned inclined to one another*, the particularly being the case if the second rests 32 with their longitudinal extension are aligned at an angle deviating by 90° transversely to the conveying direction F. The circular arc sections may also *be slightly displaced* to one another instead of being concentric or may have different radially.”<sup>4</sup> This is what is illustrated by Figures 2 and 4.

Claims 21 through 43 are readily distinguishable from the Assignee’s previously issued Müller, U.S. Patent No. 5.562.278. During the Interview, Applicant’s undersigned attorney explained that the lack of anticipation was best explained in light of the following observations.

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<sup>2</sup> *Detailed Description*, paragraph [0041], page 14, beginning with line 14.

<sup>3</sup> *Detailed Description*, paragraph [0043], page 15, beginning with line 13.

<sup>4</sup> *Detailed Description*, paragraph [0045], page 16, beginning with line 10.

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1. Muller does not teach every element of claims 21 through 43 as is demanded to demonstrate anticipation of *the invention* defined by the pending claims under 35 U.S.C. §102(b).

35 U.S.C. §102(b) provides that an Applicant is entitled to a grant of a patent, unless:

“the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.”

As interpreted and applied under current U.S. Office practice established by 35 U.S.C. §102(b), no claim may be rejected under 35 U.S.C. §102(b) unless:

“[t]he identical invention ... [is] shown in as complete detail as is contained in the ... claim”.<sup>5</sup>

In support of this rejection however, the Examining staff questioned whether,

“Muller does not disclose that the conveyor means in the transfer region is arranged adjacent to a collection drum end of the collection drum. In response, the Examiner notes that Muller discloses a convey device that is arranged adjacent to a collection drum end of the the collection drum (see at least applicant's specification as filed, paragraph 0010).”<sup>6</sup>

This focuses exclusively upon a single phrase in claim 1, “wherein the conveyor device in the transfer region is arranged adjacent to a collection drum end of the collection drum”, and a single phrase in claim 16, “a conveyor assembly arranged adjacent to a collection drum end of the collection drum”. 35 U.S.C. §102(b) however, demands evidence that “*the invention* [as opposed to a single feature of *the invention*] was patented or described in a printed publication” while the second paragraph of 35 U.S.C. §112 states that the claims define “*the subject matter which the applicant regards as his invention.*” Applicant is concerned that the

<sup>5</sup> §2131 of the *Manual of Patent Examining Procedure*, 8<sup>th</sup> Ed., Rev. 3, August 2005, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

<sup>6</sup> Paper No. 20060623, page 11, and originally, Paper No. 11152005, page 3.

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focus by the Examining staff upon a single phrase in the claims, and a comparison of those phrases with the Background discussion of Applicant's original specification<sup>7</sup> is somewhat less evidence of anticipation that contemplated by 35 U.S.C. §102(b), particularly in view of the failure of the Examining staff to consider the remainder of those claims. The adjective *adjacent* is known for its breath and scope as a description of spatial relations; the fact that the same adjective may be used to broadly describe attributes of both the existing art and the Applicant's invention is not persuasive evidence of anticipation under 35 U.S.C. §102(b).

By way of a first demonstration, claim 24 defines a structure in which, "for the second rests movable in the conveyor path there is provided a conveyor unit *detachable* in the collection drum" while claim 37 defines a structure with "a carriage unit *detached* from the collection drum". A structure with these attributes is wholly absent from the Müller '278 patent; in contradistinction, the Müller '278 patent teaches that:

"[t]he separating elements 42 are spaced apart by a distance A, and are carried by an endless drawing member 46, for example two chains 46'... the endless conveyor member 46 or chains 46' are guided around the supporting element 16 of the processing drum 14 and a cylindrical drum-like deflection member 48."<sup>8</sup>

In other words, in Müller '278 conveyor member 16 is both structurally and functionally integrated with both the supporting structural frame and the chain drive mechanism of the processing drum 14. Physically, as illustrated by both the O.G. Figure and by Figure 1, conveyor unit 14 is located between, and serves to physically separate, feeding stations 28 and 30 along separated axially lengths of processing drum 14.

Where is any suggestion of "detached" in the prior art? In other words, the art

<sup>7</sup> Applicant's original specification states that [t]he revolving conveyor means is arranged adjacent to the collection drum end.", page 6, lines 1 and 2.

<sup>8</sup> The significance of this passage of Müller '278 is the complete structural and operational integration of circulating conveyor 40 and processing drum 14, wholly devoid of Applicant's teaching of "a conveyor unit detached from the collection drum."

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represented by the Müller '278 patent is incapable of teaching Applicant's structure with "a conveyor unit detached from the collection drum."<sup>9</sup>

By way of a third demonstration of a lack of anticipation under 35 U.S.C. §102(b), a thorough reading of the Müller '278 patent reveals that the Müller '278 patent nowhere uses either the verb *detach* or *detached*.<sup>10</sup> In contradistinction, Applicant alone teaches that,

"[a]ccording to the invention, the device for conveying the second rests in the conveyor path of the conveyor means comprises a conveyor unit released detached from the collection drum. Since thus no part of the collection drum is an integral component of the conveyor means, it becomes possible to place the conveyor path in the room more or less independently of the collection drum and to transfer the printed products to the conveyor means in any region of the conveyor path."<sup>11</sup>

Consequently, the statements set forth in Paper No. 20060623 that:

9. Regarding claim 16, Muller discloses a device for collecting and processing folded printed products that includes a collection drum (14) rotatably drivable about a drum axis (12) and comprised of first rests (18) with first saddles (20), the first rests being uniformly distributed over the circumference and extending in their longitudinal extension parallel to the drum axis (see col. 3, lines 33-36), as well as conveyor elements (34) for conveying the printed products on the first saddles in the axial direction along the firsts rests; and comprising a conveyor assembly (40) arranged adjacent to a collection drum end of the collection drum to accommodate transfer of the printed products between the collection drum end and the conveyor assembly,

<sup>9</sup> Claim 1, lines 15 and 16, and claim 16, line 10.

<sup>10</sup> To paraphrase the Board of Appeals & Interferences, how can Müller *et al.* '278 be said to anticipate Applicant's "conveyor unit detached from the collection drum" defined by claim 1 when Müller *et al.* '278 nowhere even uses Applicant's term *detached*? This rejection is specious and without factual basis.

<sup>11</sup> Original specification, page 7, lines 10-16.

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comprising a conveyor path (see Fig. 2) with a conveyor direction (u) deviating in a transfer region (50') from the axial direction, second rests (42), a conveyor unit (48) *detached* from the collection drum, disposed to propel the second rests along the conveyor path, and second saddles (52) arranged distanced apart from one another and arranged transversely to the conveying direction.

h. Regarding claim 17, Muller discloses a device for collecting and processing folded printed products that includes a collection drum (14) rotatably driveable about a drum axis (12), the collection drum (14) comprising a terminal portion bearing first rests (18) with first saddles (20), the first rests (18) being uniformly distributed over a circumference and extending in longitudinal extension parallel to the drum axis (see col. 3, lines 33-36), and conveyor elements (34) disposed to convey the printed products on the first saddles (20) in an axial direction along the firsts rests (18); and a conveyor assembly (40) selectively alignable spaced-apart (see col. 4, lines 50-57) from an end of the collection drum (14) to accommodate transfer of the printed products between the terminal portion and the conveyor assembly (40), the conveyor assembly(40) comprising a conveyor path with a conveyor direction (u) deviating in a transfer region (50') from the axial direction, second rests (42) bearing second saddles (52) arranged distanced apart from one another and arranged transversely to the conveying direction(u), a conveyor unit (48) *detached* from the collection drum and disposed to propel the second rests around a second axis radially displaceable from said drum axis and along the conveyor path.

i. Regarding claim 19, Muller discloses a device for collecting and processing folded printed products that includes a collection drum (14) rotatably driveable about a hub exhibiting a drum axis (12), the collection drum providing a terminal portion forming a transfer region (50'), the terminal portion comprising first rests (18) bearing first saddles (20), the first rests being uniformly distributed over a circumference and extending in longitudinal extension parallel to the drum axis (see col. 3, lines 33-36), and conveyor elements (34) arrayed to convey the printed products on the first saddles (20) in an axial

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direction along the firsts rests (18); and a conveyor assembly (40) positionably spaced-apart from the terminal portion to rotate around a second axis displaceable from coaxial alignment (see col. 4, lines 50-57) with the drum axis to accommodate to within a transfer region (50') of the collection drum (14), transfer of printed products between the first rests (18) and a plurality of second rests (42) borne by the conveyor assembly (40) along a conveyor path deviating in the transfer region from the axial direction, by providing alignment (see col. 4, lines 50-57) between the first rests (18) and the second rests (42) within the transfer region (50'), the conveyor assembly (40) comprising a conveyor unit (40) *detached* from the collection drum and disposed to propel the second rests along the conveyor path.

j. Regarding claim 21, Muller discloses a device for collecting and processing folded printed products that includes a collection drum (14) rotatably drivable about its drum axis and comprised of first rests (18) with first saddles (20), the first rests (18) being uniformly distributed over the circumference and extending in their longitudinal extension parallel to the drum axis (see col. 3, lines 33-36), as well as conveyor elements (34) for conveying the printed products on the first saddles (20) in the axial direction along the firsts rests (18), and a conveyor device (40) comprising a revolving conveyer (40) having an upper side and a lower side (see Fig. 7), a conveyor path with a conveyor direction (u) which at least in a transfer region deviates from the axial direction, second rests (42) movable in the conveyor path, and second saddles (52) arranged distanced to one another and arranged transversely to the conveying direction, with the conveyor device in the transfer region arranged adjacent to an end of the collection drum to enable carriage of the printed products to be transferred from an end to the conveyor device or vice versa (see col. 11, lines 5-7), and the second rests (42) being *movable propelled along the conveyor path independently* from the collection drum."

are unsupported by either the record before the Office or by the express teachings of the Müller '278 patent. This rejection may not therefore, be maintained because the evidentiary

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basis of the finding of anticipation is false.

Additionally, and in contrast to the Examiner's argument set forth in paragraph 10(b), Müller *et al.* '278 does not disclose that the second rests are movably supported on rails (72). Reference numeral (72) is used to identify the upper strand of the circulating conveyor 40 (Muller: Figure 5 and column 7, lines 8 ff.). Neither does Muller either disclose or suggest the use of rails to support and guide the second rests. The rails according to the present invention are structures which are realized *in addition to* (that is, an improvement over) the strand of the circulating conveyor as known taught by Müller *et al.* '278. This deficiency in Paper No. 20060623 is emblematic of the lack of anticipation by Müller *et al.* '278.

By way of a third demonstration of a lack of anticipation under 35 U.S.C. §102(b), the Müller '278 patent teaches that:

“[t]he separating elements 42 are spaced apart by a distance A, and are carried by an **endless drawing member 46**, for example two chains 46'... the endless conveyor member 46 or chains 46' are guided around the **supporting element 16 of the processing drum 14** and a cylindrical drum-like deflection member 48.”<sup>12</sup>

In Müller '278 conveyor member 16 is both structurally and functionally integrated with both the supporting structural frame and the chain drive mechanism of the processing drum 14. Specifically, in Müller '278:

- “separating elements 42 [of conveyor unit 46 in Müller '278] are ... carried by an **endless drawing member 46**;”<sup>13</sup>
- “[t]he endless conveyor member 46 or chains 46' are guided around the

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<sup>12</sup> Müller '278 , column 4, lines 32-37. The significance of this passage of Müller '278 is the complete structural and operational integration of circulating conveyor 40 and processing drum 14, wholly devoid of Applicant's teaching of “a conveyor unit detached from the collection drum.”

<sup>13</sup> Müller '278 , column 4, lines 32-34.

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supporting element 16 of the processing drum 14 and a cylindrical drum-like deflection member 48";<sup>14</sup> and

- “[t]hus in the section 50’ of the movement path of the circulation conveyor 40, the separating elements 42 span the gap between the wall elements 18<sup>15</sup> of the circulating-conveyor section 26.”<sup>16</sup>

Where is any suggestion of Applicant’s teaching of a conveyor unit (48) *detached* from the collection drum or Applicant’s “second rests (42) being *movable propelled along the conveyor path independently* from the collection drum” as is incorrectly asserted by the Examining staff in Paper No. 20060623?

These deficiencies in the interpretation of the art by the Examining staff are persuasive evidence of an utter lack of anticipation. Paper No. 04072005 and Paper No. 20060623 simply do not address every element of rejected claims 1, 16, 17, 19 or 21 as is required to demonstrate anticipation of *the invention* defined by the pending claims under 35 U.S.C. §102(b); moreover, as demonstrated in the foregoing paragraphs, claims 17 through 21 prepared for discussion during the Office interview are readily allowable over the prior art. Withdrawal of this rejection is therefore required under guidance laid down by the Director for the Examining staff.<sup>17</sup>

It is submitted that the claims of this application are in condition for allowance, and

<sup>14</sup> Müller ‘278 , column 4, lines 34-38.

<sup>15</sup> Wall elements 18 are arrayed on both sides of conveyor unit 46, as is explained by Müller ‘278 in column 3, lines 32-36: “The wall elements 18 are distributed uniformly along the circumference of the processing drum 14 and their radially outer edges, form saddle-like rests 20 which extend generally parallel to the axis of rotation.”

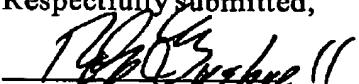
<sup>16</sup> Müller ‘278 , column 4, lines 49-53.

<sup>17</sup> §2131 of the *Manual of Patent Examining Procedure*, 8<sup>th</sup> Ed., Rev. 3, August 2005.

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early issuance thereof is solicited. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

Respectfully submitted,

  
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